

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

ORDER

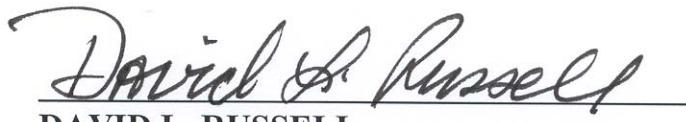
Before the Court is the Partial Motion to Dismiss Punitive Damage Claims by Defendants Larry Rhodes, in his Official Capacity (“Rhodes”), and Board of County Commissioners for Garvin County, Oklahoma (“the Board”). Doc. No. 13. Rhodes and the Board move to dismiss all punitive damages “claims” against them under Rule 12(b)(6). *Id.* at 1. They also seek attorney’s fees and costs incurred in bringing this motion. *Id.* at 3. In response, Plaintiff contends that this motion is superfluous because a plain reading of the Complaint shows that Plaintiff is not seeking punitive damages from Rhodes or the Board. Doc. No. 19, at 2-4. Plaintiff also seeks attorney’s fees and costs incurred in responding to the motion. *Id.* at 4-5.

Although Plaintiff concedes that he is not entitled to punitive damages from Rhodes or the Board,¹ because punitive damages are a remedy, not a claim subject to

¹ See Doc. No. 19, at 3-4 (“[A] plain reading of Plaintiff’s Complaint clearly demonstrates that Plaintiff was not seeking exemplary damages from any *entity* named as a defendant, in that such damages are precluded by Oklahoma statute and Section 1983 decisional law.”).

dismissal,² the Motion to Dismiss [Doc. No. 13] is DENIED. All parties' requests for attorney's fees and costs are DENIED.

IT IS SO ORDERED this 22nd day of May, 2015.



DAVID L. RUSSELL
UNITED STATES DISTRICT JUDGE

² *Cf. Medcorp, Inc. v. Pinpoint Techs., Inc.*, No. 08-cv-00867-MSK-KLM, 2009 WL 3158130, at *5 (D. Colo. Sept. 24, 2009) (holding that punitive damages are a remedy, not a claim subject to summary judgment).